UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/021,370	Hashimoto Kawasaki-shi
Examiner	**Group Art Unit**
Daniel St.Cyr	2876

X Responsive to communication(s) filed on *Jun 27, 2000*

X This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

X Claim(s) *1-25* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

X Claim(s) *1-25* is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

X Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

X All Some* None of the CERTIFIED copies of the priority documents have been

X received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

X Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

1. Receipt is acknowledged for the amendment filed 6/27/99.

Claim Rejections - 35 U.S.C. § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3, 5-10, 12-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al, US Patent No. 5,522,509.

Shimamura et al discloses an apparatus and a tableware sorting apparatus comprising: a reading means 23 for reading data in a non-contact state from a data carrier 12 attached to a container 11 of a dish selected by the customer; a calculating means 21 for calculating a charge for the one dish; a writing means is inherently included for writing the data in the data carrier in order for the system to operate. (See col. 4, lines 1-27); antennas 31,32, serve as an input means for inputting data to be used to calculate the charge. (See col. 4, lines 39-47); the data carrier 12 is attached to the bottom 11a of the container 11, and said reading means reads the data collectively from the data carrier of the container placed on the tray 24. (See col. 4, lines 1-27), said reading means reads price data, the kind, of each dish from the carrier and said calculating means adds up the price of each dish and calculates the charge for the one dish and outputs the kind of dish in a display. A register or a computer for storing the kind and the price, of each dish

(see col. 3, lines 24-27). (See col. 3, lines 35-52), one or more items of goods are arranged flatly so that the directions of attached data carriers is the same, and said reading means reads the data collectively from the data carriers of the one or more goods arranged flatly. (See figure 6; col. 4, lines 19-28)

Shimamura et al fail to disclose or fairly suggest that the tag is a rewritable tag which includes a memory unit so that the writing selectively writing data thereon. However memory tags, such as read-only tags, dynamic tags, and read/write tags, are notoriously old and well known in the art for storing information. Therefore, it would have been obvious for a person of ordinary skill in the art to employ read/write tags into the system of Shimamura for the purpose of allowing a user to update the information, such as price change, in the tags. Regarding the writing means being selectively writing data in the tag, it would have been obvious to update the data within the tag when there is a price change or different food menu available and not to update (write additional data in the tag) when the setting of the system, and/or the tag has not changed. Therefore, it would have been an obvious expedient.

Claim Rejections - 35 U.S.C. § 103

4 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al in view of Ehrat, US Patent No. 3,836,755.

Shimamura et al do not disclose or fairly suggest a measuring means for measuring the weight of the dish or drink.

Ehrat discloses a self-service shop wherein a measuring means 182 for measuring and detecting the weight of the goods (see col. 3, lines 43-53).

It would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate the measuring means of Ehrat into the system of Shimamura et al for the purpose of monitoring the goods from the tray of the adjusting apparatus. Furthermore, having a measuring means into the system of Shimamura et al would allow the system to sell goods according their weight wherein the adjusting apparatus would calculate the price of the item corresponding to its weight which would make the system more practical and more versatile. Therefore, it would have been an obvious expedient.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shepley, US Patent No. 5,478,989.

Shepley discloses a nutritional information system for shoppers comprising: a reading means 29 for reading data in non-contact state from a data carrier, such as bar code, attached to a container of the dish or drink selected by the customer, the system calculates the nutritional information of the dish or drink selected by the customer, and displays the information. (See figures 3, 5; col. 7, lines 27-46). Shepley does not specifically disclose that the system displays

the calorie of the dish or drink and the data carrier are rewritable. However, Official notice is taken that rewritable bar codes are notoriously old and well known in the art for writing information. Therefore, it would have been obvious to employ rewritable bar codes on the items in order to allow price updating. With regard to displaying the calories, Shepley discloses a nutritional information system for aiding customers with their purchase. Therefore, it would have been obvious for a person of ordinary skill in the art to provide customers with the ability to obtain nutritional information, including calorie information, of the dish or drink in order to allow customers to make better food choices according to specific diets which contain a predetermined amount of calories. Therefore, it would have been an obvious expedient.

Response to Arguments

7. Applicant's arguments filed 6/27/00 have been fully considered but they are not persuasive (See examiner remaks).

REMARKS:

In response to the applicant's first argument on page 11, line 16 to page 12, line 5. The examiner respectfully disagrees. As evidence, cited reference Hotta et al (US 5,521,371) disclose a rewritable bar code display medium (see col. 18, lines 47-61).

In response to the applicant' second argument on page 12 lines 6-16. The examiner respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Lee*, 837 F 2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F 2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, an artisan would recognize the need to have a re-writable data carrier in order to allow price updating and providing different food choice.

In response to the last and general argument of the applicant that the writing selectively writes data into the tag. Once the system is modified to allow price updating and/or different system setting, it would have been obvious for an artisan to only allow the writing means to modify or to write into the tag when there is change. Therefore, it would have been an obvious expedient. The applicant arguments are not persuasive. Refer to the rejection above.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Daniel St.Cyr** whose telephone number is (703) 305-2656. The examiner can normally be reached between the hours of 7:30 AM to 6:00 PM Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Donald Hajec**, can be reached on (703) 308-4075. The fax phone number for this Group is (703)308-5841 or (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**donald.hajec@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

August 7, 2000

DS

THIEN M. LE
PRIMARY EXAMINER